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CENTRAL FAX CENTER****AUG 11 2005****DATE:** *August 11, 2005***PTO IDENTIFIER:** Application Number 10/069087-Conf. #9098  
Patent Number**Inventor:** Stefan Dischi et al.*MS Appeal Brief - Patents***MESSAGE TO:** US Patent and Trademark Office**FAX NUMBER:** *(571) 273-8300***FROM:** CONNOLLY BOVE LODGE & HUTZ LLP

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Attorney Docket No.: 05587-00327-US

Application No. (if known): 10/069087

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NO. 7473 P. 3  
Docket No.: 05587-00321-US

Serial No. 10/069,087

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**RECEIVED  
CENTRAL FAX CENTER**

**AUG 11 2005**

In re Patent Application of:  
Stefan Disch et al.

Application No.: 10/069087

Group Art Unit: 1711

Filed: May 16, 2002

Examiner: U. K. Rajguru

For: LOW-EMISSION COLORED  
POLYOXYMETHYLENE MOLDING  
COMPOSITION

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF**

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Serial No. 10/069,087

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**APPEAL BRIEF**

**I. THE REAL PARTY OF INTEREST**

Ticono GmbH is the real party of interest. The application was assigned and recorded on July 25, 2002, on Reel No. 013607 and Frame No. 0038.

**II. RELATED APPEALS AND INTERFERENCES**

The undersigned is not aware of any related appeals or interferences involving this application.

**III. THE STATUS OF THE CLAIMS**

Claims 4-10, 13 and 20 have been cancelled. Claims 1-3 and 11, 12, 14-19 and 21-26 are pending. The subject of this appeal is claims 1-3 and 11-26 which are attached in Appendix I.

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**IV. STATUS OF AMENDMENTS AFTER FINAL**

Applicant filed an Amendment After Final on May 19, 2005. The amendment was made of record pursuant to the Advisory Action mailed June 9, 2005.

**V. SUMMARY OF THE INVENTION**

The application has three independent claims 1, 15 and 25. The applicant is also arguing separate patentability for dependent claims 2, 3, 11, 16, 17, 18 and 22. Claims 1, 2, 3, 11, 15-18, 22 and 25 along with the support are as follows:

1. A colored molding composition made from polyacetal copolymer, wherein the polyacetal copolymer consisting essentially of oxymethylene units and oxyethylene units, and strong protonic acid and/or a derivative of a strong protonic acid was used as initiator during preparation of the polyacetal copolymer, and a colorant, and the emission of formaldehyde from the colored molding composition is lower than from a molding composition for which the polyacetal copolymer was prepared using a Lewis acid as initiator [see the specification at page 3, lines 31-37]; and wherein the formaldehyde emission, determined on test specimens in accordance with the German Automotive Industry Recommendation No. 275 (VDA 275), is not more than 20 mg/kg. [see the specification at page 4, lines 8 and 9 and page 5, lines 35-37]
2. The molding composition as claimed in claim 1, which comprises from 0.1 to 3.0% by weight of colorants selected from the group consisting of white pigments, black pigments, and color pigments. [see the specification at page 4, lines 3 and 4 and page 5, lines 13-16]

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3. The molding composition as claimed in claim 2, wherein the colorants carry a coating of an alkali metal salt of a fatty acid having at least 12 carbon atoms. [see the specification at page 6, lines 10-13]
11. The molding composition as claimed in claim 1, wherein the polyacetal copolymer comprises from 0.1 to 10 mol% of oxyethylene units. [see the specification at page 4, lines 19-21]
15. A process to prepare a molding composition which comprises preparing a polyacetal copolymer which consisting essentially of oxymethylene units and oxyethylene units, using trifluoromethanesulfonic acid and/or a derivative of trifluoromethanesulfonic acid as an initiator [see the example on page 7], mixing the polyacetal copolymer with at least one colorant selected from the group consisting of white pigments, black pigments and color pigments, [see the specification at page 4, lines 3 and 4] and obtaining a colored polyacetal molding composition whose emission of formaldehyde is lower than from a molding composition for which the polyacetal copolymer was prepared using a Lewis acid as an initiator [see the specification at page 4, lines 11-15] and wherein the formaldehyde emission, determined on test specimens in accordance with the German Automotive Industry Recommendation No. 275 (VDA 275), is not more than 20 mg/kg. [see the specification at page 4, lines 8 and 9 and page 5, lines 35-37].

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16. The process as claimed in claim 15, wherein said colorant is in an amount from 0.1 to 3.0% by weight. [see the specification at page 4, lines 3 and 4 and page 5, lines 13-16]
17. The process as claimed in claim 16, wherein the colorant carries a coating of an alkali metal salt of a fatty acid having at least 12 carbon atoms. [see the specification at page 6, lines 10-13]
18. The process as claimed in claim 15, wherein the polyacetal copolymer comprises from 0.1 to 10 mol% of oxyethylene units. [see the specification at page 4, lines 19-21]
22. The process as claimed in claim 16, wherein the polyacetal copolymer comprises from 1.0 to 2.5 mol% of oxyethylene units. [see the specification at page 4, lines 16-21]
25. A process for reducing the formaldehyde emission of colored molding compositions made from polyacetal copolymer, which comprises preparing a polyacetal copolymer consisting essentially of oxymethylene units and oxyethylene units, [see the specification at page 4, lines 1-9 and original claim 8] using trifluoromethanesulfonic acid and/or a derivative of trifluoromethanesulfonic acid as an initiator, [see the example on page 7] mixing the polyacetal copolymer with at least one colorant selected from the group consisting of white pigments, black pigments and color pigments, [see the specification at page 4, lines 3 and 4] and obtaining a colored polyacetal molding composition whose emission of formaldehyde is lower than from a



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molding composition for which the polyacetal copolymer was prepared using a Lewis acid as initiator. [see the specification at page 4, lines 11-15]

#### **VI. REFERENCE APPLIED AGAINST THE CLAIMS**

Pitt et al. U.S. Patent No. 5,476,653 ("Pitt");  
Mück et al. U.S. Patent No. 5,994,455 (Mück);  
Kosinski European Patent No. 448037 ("Kosinski");  
Chapman et al. U.S. Patent No. 3,656,982 ("Chapman"); and  
Yokoyama et al. U.S. Patent No. 5,952,410 ("Yokoyama").

#### **VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Whether claims 1-3 and 12-14 are rejectable under 35 U.S.C. 103(a) as being unpatentable over Pitt or Mück, each in view of Kosinski and Chapman?
2. Whether Chapman is not an appropriate reference to use in combination with the other references because Chapman states that its invention is particularly useful and beneficial in conjunction with pearlescent pigments which are to be incorporated in compressed cosmetic powders which is not remotely related to the applicant's claimed invention or the primary references Pitt or Mück?
3. Whether claim 2 which requires from 0.1 to 3.0% by weight of colorants selected from the group consisting of white pigments, black pigments, and color pigments is patentable?
4. Whether claim 3 which further limits claim 2 (requires from 0.1 to 3.0% by weight of colorants selected from the group consisting of white pigments, black pigments, and color pigments) and requires the colorants carry a coating of an alkali metal salt of a fatty acid having at least 12 carbon atoms is patentable?

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5. Whether claim 11 is rejectable under 35 U.S.C. 103(a) as being unpatentable over Pitt in view of Kosinski and Chapman as applied to claim 1 and further in view of Yokoyama?

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